

### **Remarks and Argument**

The Examiner rejected claims 1-23 in the Office Action made on August 25, 2004. Specifically, the claims were rejected under 35 U.S.C. § 102 (b) as being anticipated by Schaefer (U.S. Patent No. 4,217,962). The Examiner concluded that Schaefer discloses an apparatus for earth working and ground leveling comprising a trailer (identified generally as 10) having a hitch assembly (identified as reference numeral 14 in Figure 1), a grader (identified generally as 12) secured to the trailer. It is further asserted that the trailer includes a carriage frame (18) secured to the grader; the carriage frame having wheel support assemblies (58, 78, 60, etc.) with a lateral directed axis and support wheels 20. Further, the Examiner asserts that Schaefer discloses a first actuator (70) for raising the wheel support relative to the grader, a second actuator (86) and a mechanism (18, 80) connecting the first and second actuators. The Examiner concludes that Schaefer shows the second actuator (86) connected to a trailer arm (98), whereby through extending and contracting the two actuators different relative positions of tools and wheels axes can be achieved.

With this response, independent claims 1, 11 and 19 have been amended to further describe Applicant's invention. Claims 2-5, 9, 12, 16 and 21 have been amended to reflect changes made in the corresponding independent claim. Claims 13, 17 and 22 have been cancelled.

### **Discussion**

The Examiner's reference to Schaefer is appreciated so that the present invention can be clearly distinguished over the disclosure of Schaefer. In this regard, it is noted that the claims have been amended to clarify the invention and to clearly distinguish it from Schaefer. Schaefer

uses three sections: a hitch assembly (generally 16); a box frame (12); and a weight support frame (18) with wheels (20). Each section is adjusted relative to the other using several actuators (70, 72, 86 and 90). Even further, the box frame is adjusted with a fifth actuator (102) operating in unison with actuator 86. The Examiner has asserted that Schaefer discloses the second actuator (86) with an end connected to a trailer arm (98). A close look at Schaefer however, does not show the end of the second actuator connected to the trailer arm (98). Instead, it is attached to the box frame at 88. *See* Figure 2 and col. 3, lns. 38-47. With Schaefer's design the second actuator 86 raises and lowers the rearward portion of the weighted support frame 18, not the front of a grader. *See* col. 4, lns 37-45. Schaefer needs a third actuator (90) to raise and lower the forward end of box frame. *See* col. 5, lns 9-16. Amended claim 1 in this application now describes the second actuator pivoting the front of the grader.

Also, Applicant's invention has a jack shaft positioned above the rear blades of the grader with the first actuator attached to the jack shaft. Therefore, the first actuator can adjust the height of the grader relative to the ground, thereby allowing the pivoting movement of the blades for adjustment without interference from the carriage frame. Further, in cooperation through the connecting mechanism, the second actuator can be used to adjust the angle of the grader relative to the ground while the first actuator can adjust the height of the grader while substantially maintaining the adjusted angle. This is not the case with Schaefer.

Schaefer uses a different structure having different features and limitations. The asserted first actuator (70 or 72) is mounted on a weight support frame (18) behind the box frame (12). More specifically, the weight support frame (18) is pivotally connected *to the rearward surface of the box frame wall (26)* "intermediate its height." *See* Schaefer col. 3, ln. 21 and Figures 2-4.

Actuators 70 and 72 are each pivotably connected between an upper end portion of their respective standards 66 and 68 and wheel support arms (62). In Schaefer, each actuator 70 and 72 simply pivots its respective upper portion standard (66 and 68) about the wheel support arm. Among other things, the structure used in Schaefer would have the weight support frame (18) pivot into the path of any adjustable rear blades such as those described in the instant claim.

More specifically, claim 1 has been amended to further describe the grader to include at least two rear blades. Specifically, the blades are supported on a hinge and attached to a corresponding adjustment plate. Each blade can be adjusted to an angle forward or backward, and then each secured into place by a pin. Because of this adjustability, it is important that the grader in the instant invention not interfere with the wheel support assembly and/or vice versa. Therefore, the wheel support assembly is now described in claim 1 to include laterally spaced arms supporting the wheels, a journal, and a jack shaft secured to the arms and supported on the journal, with the jack shaft positioned above the rear blades of the grader for pivoting movement of the wheel support assembly about the axis. Applicant's structure is important in order to allow for adjustment of the rear blades that pivot about the hinge.

Claim 11 has been amended to describe the first actuator attached to a cross member of the carriage frame and to the jack shaft. Like claim 1, the jack shaft is positioned above the lower surface of the side rails of the grader and the second actuator is used to angularly adjust the front of the grader. Of course, implements attached to the grader would be attached below the side rails. Again, by attaching the pivoting axis above the top surface of the attached implements, blades can be adjusted without interfering with the carriage frame. As seen in Figure 3 of Schaefer, the Schaefer design would interfere with the pivoting action of the grader

blades as described by Applicant.

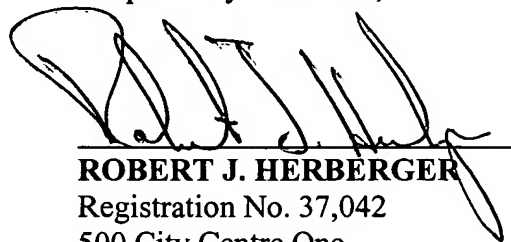
Finally, claim 19 has been amended to describe the wheel support actuator being secured against displacement above the side rails of the grader to a fixed cross member of the carriage frame. The opposite end of the actuator is driveably connected to the jack shaft for producing a force opposing pivoting movement about the journal axis positioned above at least the lower surface of the grader side rails. Again, this structure allows for clearance of grader implements adjustably attachable thereto. Also, claim 19 has been amended to describe the pivot attachment actuator having an end secured to the hitching assembly of the trailer to raise and lower the front of the grader, unlike Schaefer which has a second actuator attached to the box frame to manipulate its rear elevation.

### **Conclusion**

Applicant believes that claims 1, 11 and 19 as amended are acceptable, and as a result thereof their respective dependent claims would also be acceptable. In view of the foregoing, it is respectfully submitted that the present application is now in a condition for allowance and notification to that affect is earnestly solicited. The Examiner is respectfully urged to contact the undersigned attorney if there are any further matters standing in the way of allowance.

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Respectfully submitted,



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